

Notice of Allowability

Application No.

10/666,058

Examiner

Jessica T. Stultz

Applicant(s)

GILES ET AL.

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE and Amendment dated September 1, 2005.
2. ☒ The allowed claim(s) is/are 1-32, 34 and 36-39.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413), Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input checked="" type="checkbox"/> Other <u>Response to Arguments</u> . |

Jordan Schwartz
9/16/05

Jessica T. Stultz

Allowed Claims: 1-32, 34, and 36-39

Informal Examiner's Amendment

An informal examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

1. Specification, page 1, line 2, change "No. 09/944,800, entitled" to --No. 09/944,800, now US Patent 6,657,770, entitled--;
2. Claim 13, line 3, change "have a z which" to --have a z delta which--.

Examiner's Comments

For applicant's information, the specification has been amended to show that the parent application has issued as a patent. The change to claim 13 was informally made above by the examiner to correct an apparent inadvertent error. Specifically the claim should apparently state "z delta" similar to what is set forth in claims 37 and 38.

Response to Arguments

Applicant's arguments see Response, filed September 1, 2005, with respect to independent claims 1, 28, and 30, as amended, have been fully considered and are persuasive. The Examiner's basis for allowability for independent claims 1, 28, and 30 is the same as those set forth within that Response.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance: none of the prior art alone or in combination disclose or teach of the claimed combination of limitations to warrant a rejection under 35 USC 102 or 103.

Specifically in reference to independent claim 31, none of the prior art alone or in combination disclose or teach of a method of switching channels comprising providing an optical device with two or more ports, a wavelength discriminating device, and an array of reflective elements adapted to rotate about an axis, specifically wherein the reflective elements are in a common plane in combination with at least two adjacent reflective elements correspond to a particular channel beam and rotate to one or more intermediate positions to switch the optical coupling of the channel beam from one port to another port.

Specifically in reference to independent claim 32, none of the prior art alone or in combination disclose or teach of a method of switching channels comprising providing an optical device with at least one port, a wavelength discriminating device, and an array of reflective elements adapted to rotate about an axis, specifically wherein the reflective elements are in a common plane in combination with at least two adjacent reflective elements correspond to a particular channel beam and rotate to one or more intermediate positions to produce a desired group delay profile for the channel beam.

Conclusion

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Art Unit: 2873


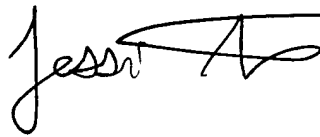
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica T. Stultz whose telephone number is (571) 272-2339.

The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps can be reached on 571-272-2328. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jessica Stultz
Patent Examiner
AU 2873
September 15, 2005



JORDAN SCHWARTZ
PRIMARY EXAMINER



Approved
by
[Signature]
9/15/05

FIG. 1

